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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/731,066	12/06/2000	Christopher P. Townsend	1024-034	1286
26542	7590	10/16/2006		
JAMES MARC LEAS 37 BUTLER DRIVE S. BURLINGTON, VT 05403			EXAMINER RIMELL, SAMUEL G	
			ART UNIT 2164	PAPER NUMBER

DATE MAILED: 10/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/731,066

Applicant(s)

TOWNSEND ET AL.

Examiner

Sam Rimell

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2164

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26, 28-30, 32, 34, 35, 38-54 and 56-78 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-26, 28-30, 32, 34, 35, 38-54 and 56-78 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


SAM RIMELL
PRIMARY EXAMINER

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-26, 28-30, 32, 34-35, 38-54 and 56-78 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1: Independent claim 1 has been amended to recite an “unscheduled” real time signal which can trigger certain actions. The term “unscheduled” is a negative limitation which means that the signal is not generated in accordance to a pre-existing schedule. This feature is found to be new matter for the following reasons: (1) There is no discussion in the original specification of any signals being “unscheduled” or not following a schedule. (2) There mere absence of a schedule for the transmissions in the specification is not a basis for claiming “unscheduled” in the claim (See MPEP 2173.05(i) *“The mere absence of a positive recitation is not a basis for an exclusion”*). (3) Applicant does not point out where the amended feature is supported in the original specification. Accordingly, the feature is found to be new matter.

Claim 39: Independent claim 39 has been amended to recite the transmission of an “unscheduled” real time signal. This feature is new matter, for the reasons as cited in claim 1.

Claim 40: Independent claim 40 has been amended to define a “hierarchical architecture”. This feature is new matter for the following reasons: (1) The original disclosure does not make any reference to the term “hierarchy” or “hierarchical”. (2) The original

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disclosure and drawings do not suggest any hierarchical relationships between any components.

(3) Applicant does not point out where the amended feature is supported in the original specification. Accordingly, the feature is found to be new matter.

Claim 50: Independent claim 50 has been amended to define a “hierarchical architecture”. This feature is found to be new matter, for the reasons as recited in claim 40.

Claims 2-26, 28-30, 32, 34-35, 38, 41-49, 51-54, 56-78: Depend from the independent claims set forth above.

Remarks

Applicant's arguments have been considered.

Applicant admits that the term “unscheduled” is not set forth in the original specification, but states that it may be suggested by various quotations in the fourth paragraph of applicant's remarks on page 16. Examiner maintains that there is no suggestion of “unscheduled” activity in any of the quotations or in any of the remaining portions of the specification. While the specification does refer to transmission of signals, it does not recognize such signals as being “unscheduled”. Since there is no specific disclosure or suggestion of this feature, it is found to be new matter.

Applicant admits the term “hierarchical architecture” is not in the original specification, but refers to quotations at the fifth paragraph of page 17 where it may be suggested. However, none of these quotations suggest the recognition of a hierarchical architecture in the original specification, nor is this feature suggested in any of the remaining portions of the specification . Accordingly, it is also found to be new matter.

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THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (571) 272-4084.



Sam Rimell
Primary Examiner
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